RESPONSE

Applicant submitted an Amendment and Response dated December 12, 2007 (the "Dec. 12, 2007 Amendment") in response to an Office Action dated September 10, 2007 (the "Office Action"). The Dec. 12, 2007 Amendment was rejected as non-compliant because the Examiner deemed Applicant's response to the 37 C.F.R. 1.105 Request for Information as insufficient. Applicant respectfully submits this Response in response to the Office Action and the Notice of Non-Compliance.

Claims 1-14 are pending in this application. Claims 1-14 stand rejected under 35 U.S.C. § 102. Claims 1, 8, 12 and 14 are independent claims. Claims 5 and 8 have been amended to more clearly define Applicant's invention. Applicant respectfully traverses the rejection and requests reconsideration and allowance of the claims in light of the following remarks.

Rejection of Claims under 35 U.S.C. § 102

The Office Action rejected claims 1-14 under 35 U.S.C. § 102 as being anticipated by Flex Options – Chicago Board Options Exchange ("CBOE").

Status of CBOE Reference as "Prior Art"

Applicant notes that the CBOE reference was printed on 8/27/2007 and the Office Action has not identified any posting date of such reference that predates Applicant's filing date. Accordingly, the CBOE reference is not properly a prior art reference.

Moreover, even if taken at face value, the CBOE reference merely states that "[i]n 1993, CBOE introduced Flexible Exchange Option." However, the CBOE reference does not purport to describe the CBOE system as it existed in 1993.

Rejection under 35 U.S.C. § 102 as Anticipated by CBOE

Assuming, *arguendo*, that the CBOE reference is properly prior art, Applicant respectfully traverses this rejection on the following grounds:

First, to Applicant's knowledge, the CBOE system was not an automated trading system, and therefore can not anticipate the present invention.

Second, even assuming the CBOE system were automated, for the reasons set forth below, the claimed system is clearly distinguished from the CBOE system, because, *inter alia*, each of the independent claims, i.e., claims 1, 8, 12 and 14, require a first

period during which only the requestor may trade on responses to the RFP and a second period during which only the responders and the requestor may trade on the responses. In contrast, the CBOE reference provides that any Market Maker, Member Organization or Floor Broker may trade responses if the Submitting Member does not accept the best bid and offer ("BBO") made in response to the RFQ.

Specifically, claims 1, 8, 12 and 14 recite the following:

Claim 1

"allowing said two or more responders to trade on said two or more responses during a second period, each said trader not being allowed to trade on said two or more responses during said second period unless said trader comprises said requestor or said two or more responders".

Claim 8

"allowing said two or more responders to trade on said responses during a second exclusivity period, said traders not being allowed to trade on said responses during said second exclusivity period unless each such trader comprises a requestor or said two or more responders".

Claim 12

"a server ... adapted to ... allow said two or more responders to trade on said responses during a second period, each said plurality of traders not being allowed to trade on said responses during said second period unless each said trader comprises said requestor or said two or more responders".

Claim 14

"a means for allowing said two or more responders to trade on said responses during said second period at the expiration of said first period, each of said plurality of traders not being allowed to trade on said response during said second period unless each said trader comprises said requestor or said two or more responders".

The CBOE reference provides that "[g]enerally, only a Submitting Member acting on behalf of a customer may accept quotes made in response to an RFQ." (CBOE p. 6) As noted above, in contrast to Applicant's claimed invention, the CBOE reference provides that "any Market Maker, Member Organization, or Floor Broker on behalf of a customer," may trade on the responses "if the Submitting Member does not accept the BBO made in response to the RFQ." (CBOE p. 7) Nothing in the CBOE reference, or any prior art of record, discloses, teaches or suggests creating a second period during which only the responders and the requestor may trade on the responses, nor would it be obvious to modify the CBOE system to do so. Accordingly, Applicant believes claims 1, 8, 12 and 14 are patentable over the cited art, even assuming, *arguendo*, the CBOE is "prior art."

Independent claim 8 further recites "providing an alert to each trader whose tradeable structures include the RFP structure." Nothing in CBOE discloses, teaches, or suggests providing alerts to traders whose tradeable structures include the referenced RFP structure. Accordingly, claim 8 is further believed patentable, *inter alia*, by virtue of such limitation.

Dependent claims 2-7, 9-11 and 13, depend on independent claims 1, 8 and 12, respectfully, and are believed patentable, *inter alia*, by virtue of such dependency. In addition, Applicant notes the following non-exhaustive list of distinctions, each of which render such dependent claims patentable.

Claim 2 requires, *inter alia*, matching orders at the expiration of the first period and before allowing the two or more responders to trade on said responses. Claim 3, which further depends upon claim 2, further requires matching crossed orders. As noted above, CBOE states that if the Submitting Member does not accept the BBO, then any Market Maker, Member Organization or Floor Broker may trade on the response. Specifically, CBOE states:

> 1. The Submitting Member decides whether to accept the best bid or offer, or request a BBO Improvement interval.
> 2. Upon acceptance of a bid or offer by the Submitting Member, the FLEX Post Official will disseminate a last sale message as well as enter the transaction into the trade match system and generate a trade confirmation for the parties involved. All parties must sign this trade confirmation and return it to the FLEX Post Official. Generally, only a

> Submitting Member acting on behalf of a customer may accept quotes made in response to an RFQ. There are two exceptions to this:
>
> - 1 – If the Submitting Member decides not to accept the BBO made in response to the RFQ, any Market Maker, Member Organization, or Floor Broker on behalf of a customer, may accept the best bid or offer up to the size currently represented, or; If the Submitting Member accepts the best bid or offer, but there is excess size available at that best bid or offer, any Market Maker, Member Organization, or Floor Broker acting on behalf of a customer, may trade the balance available.
> - 2 – The Submitting Member always has priority over any party wishing to trade the requested option series up to the full notational amount specified in the RFQ. If a party other than the Submitting Member wishes to trade that option series, and none of the above conditions are met, the other party must submit a new RFQ in order to generate Responsive Quotes upon which a transaction may occur. (CBOE pp. 6-7)

However, nothing in CBOE discloses, teaches or suggests (i) matching orders at the expiration of said first period and before allowing the Market Maker, Member Organizations or Floor Brokers to trade on said responses or (ii) matching crossed orders before allowing the Market Maker, Member Organizations or Floor Brokers to trade on said responses; nor would it have been obvious to modify CBOE to do so.

Claims 4 and 11 require, *inter alia*, migrating any responses which have not been traded at the end of the second period to the general market. CBOE does not provide for migrating responses to the general market. In contrast, CBOE provides that "[i]f a party other than the Submitting Member wishes to trade that option series, and none of the above conditions are met, the other party must submit a new RFQ in order to generate Responsive Quotes upon which a transaction may occur." (emphasis added) Thus, CBOE expressly teaches against migrating responses to the general market.

Claim 5 requires, *inter alia*, (i) the requestor and the two or more responders to be associated with trading groups, and (ii) transmitting responses to said associated trading groups, "each trader not receiving said two or more responses unless said trader comprises a trader in said trading group associated with said requestor or at least one trading group associated with said two or more responders." Nothing in the CBOE reference discloses, teaches or suggests trading groups or limiting receipt of responses to trading groups associated with a requestor or responder. Claim 6, which depends upon claim 5, further recites not allowing a trader to trade unless such trader is associated with

a trading group of said requestor, or responder, respectively. Nothing in CBOE teaches, discloses or suggests limiting trading to such trading groups.

Claim 9 requires, *inter alia*, that the tradable structures that may generate an alert message when an RFP is received are a function of the potential traders to a trade. Nothing in CBOE teaches, discloses or suggests such tradeable structures.

Request for Information

The Office Action stated that "[i]t appears based on prior art searches that Applicant's claimed invention has been in use or on sale by the assignee dating before the filing date of the Application," and requests that Applicant provide certain information under 37 C.F.R. 1.105 relating to Applicant's first use or sale of the claimed invention.

In Applicant's Dec. 12, 2007 Amendment, Applicant stated:

> "It is Applicants' understanding that the Office Action's request is based on the perception that the CBOE RFQ is related to the Applicants' claimed invention. Applicants' hereby confirm that the CBOE RFQ system is unrelated to the ICOR RFP system and, at all times prior to the filing date of the present application, ICOR did not have any ownership or other rights to the CBOE system. Accordingly, Applicants believe the request for further information is no longer necessary."

In response, the PTO issued the March 17, 2008 Notice of Non-Compliance, stating:

> "... the Applicant is requested to discuss whether Applicant's invention has been in use or on sale dating before the filing date of the application. Please submit information regarding the RFQ based financial product and specifically identify the beginning date of sale of the products and any relevant changes to the product sold."

Applicant hereby confirms that, after a reasonable inquiry and good faith attempt to obtain such information, the information requested by the Request for Information is unknown or not readily available.

* * *

In view of the forgoing supporting remarks, Applicant respectfully requests consideration of the Response and allowance of claims 1-14.

If the Examiner wishes to direct any questions concerning this application to the undersigned Applicant's representative, please call the number indicated below.

Respectfully submitted,

By _____
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